

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

* * *

UNITED STATES OF AMERICA,
Plaintiff,
v.
JOHNSTON BLACKHORSE,
Defendant.

Case No. 2:14-cr-00340-APG-PAL

**ORDER GRANTING MOTION FOR
AN ORDER DEEMING ATTORNEY-
CLIENT PRIVILEGE WAIVED AND
SETTING A REVISED BRIEFING
SCHEDULE**

(ECF No. 52)

In response to defendant Johnston Blackhorse's motion to vacate, set aside, or correct his sentence, the Government moves for an order deeming the attorney-client privilege between Blackhorse and his counsel, Rebecca Levy, waived. The Government also requests a revised briefing schedule. Blackhorse does not oppose waiver of the privilege but objects to a revised briefing schedule. *See* ECF No. 55. Because Blackhorse does not oppose the motion for a waiver of the privilege, I grant it. Additionally, the Government must have an opportunity to review Levy's affidavit or declaration to prepare a response to Blackhorse's § 2255 motion. I therefore grant the motion for a revised briefing schedule, although I reduce the requested response times.

IT IS THEREFORE ORDERED that the United States' motion for an order deeming the attorney client-privilege waived and for a revised briefing schedule (**ECF No. 52**) is GRANTED. The attorney-client privilege between defendant Johnston Blackhorse and Rebecca Levy, Esq., shall be deemed waived for all purposes relating to Blackhorse's motion pursuant to 28 U.S.C. § 2255 to vacate, set aside, or correct his sentence.

IT IS FURTHER ORDERED that Ms. Levy shall, within 20 days of the date of this order, provide the Government with an affidavit or declaration addressing the allegations of ineffective assistance of counsel in Blackhorse's § 2255 motion (ECF No. 48).

IT IS FURTHER ORDERED that the United States shall file a response to defendant Blackhorse's § 2255 motion, if it has any, no later than 20 days after receiving Ms. Levy's

1 affidavit or declaration. Defendant Blackhorse may file a reply in support of his motion within 20
2 days after the Government files its response.

3 DATED this 22nd day of November, 2016.



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5 ANDREW P. GORDON
6 UNITED STATES DISTRICT JUDGE
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